

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEENAN G. WILKINS,
Petitioner,

No. C 11-5626 SI (pr)

ORDER

v.

GREGORY J. AHERN, Sheriff,
Respondent.

Petitioner filed this *pro se* action for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 to challenge an expired 1999 conviction and sentence. The court dismissed the action because petitioner was not in custody on the conviction and sentence he sought to challenge. Thereafter, petitioner filed a motion for reconsideration, a notice of appeal, and a request for certificate of appealability.


In his motion for reconsideration, petitioner states that the court misunderstood his "intent and position" in his petition, Docket # 6, p. 1, as his 1999 conviction does affect his current incarceration, including affecting the amount of bail set in the current action. *Id.* at 3. Upon due consideration, the court DENIES the motion for reconsideration. (Docket # 6.) The petition filed in this action challenged the 1999 conviction, as evidenced by petitioner's clear statements that he was challenging the 1999 conviction and sentence and that he was not in custody thereon. Docket # 1, p. 2. The 1999 conviction and sentence are no longer open to challenge. *See Lackawanna County Dist. Attorney v. Coss*, 532 U.S. 394 (2001). Further, petitioner cannot change the focus of the petition to make it an attack his current detention because he already has

1 a separate habeas petition pending that challenges his current pretrial detention: *Wilkins v.*
2 *Ahern*, No. C 12-543 SI. Any claim about his current pretrial detention must be asserted in Case
3 No. C 12-543 SI.

4 Petitioner's request for a certificate of appealability is DENIED. (Docket # 7.) This is
5 not a case in which "jurists of reason would find it debatable whether the petition states a valid
6 claim of the denial of a constitutional right and that jurists of reason would find it debatable
7 whether the district court was correct in its procedural [rulings]" in the Order Of Dismissal or
8 in this order. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); 28 U.S.C. § 2253(c). The denial
9 of the certificate of appealability is without prejudice to petitioner seeking a certificate from the
10 United States Court of Appeals for the Ninth Circuit.

11 IT IS SO ORDERED.

12 DATED: April 5, 2012



SUSAN ILLSTON
United States District Judge